

ENVIRONMENTAL ADVOCATES  
ATTORNEYS AT LAW  
5135 ANZA STREET  
SAN FRANCISCO, CALIFORNIA 94121  
TELEPHONE (415) 533-3376  
FAX (415) 358-5695

April 20, 2015

*VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED*

Eric Gaboury Felton Quarry 1800 Felton Quarry Road Felton, CA 95018	Granite Construction Incorporated PO Box 50058 Watsonville, CA 95076
Ross Kashiwagi Granite Construction Co. Coastal Region 715 Comstock Street Santa Clara, CA 95054	James H. Roberts, President and CEO Granite Construction Incorporated 585 West Beach Street Watsonville, CA 95076
C T Corporation System Registered Agent for Granite Construction Company 818 W Seventh Street Los Angeles, California 90017	

Re: Notice of Clean Water Act Violations and Intent to File Suit

Dear Sirs:

I am writing on behalf of Ecological Rights Foundation ("EcoRights") to give notice that EcoRights intends to file a civil action against Granite Construction Company, Granite Construction Incorporated and James H. Roberts, CEO of Granite Construction Incorporated (hereinafter collectively "You," "Your" or "Felton Quarry") for Your violations of the Clean Water Act ("CWA") at the Felton Quarry Facility located in Felton, California ("the Felton Quarry Facility" or "the Facility").

On information and belief, Felton Quarry is operated by Granite Construction Company, a wholly-owned subsidiary of Granite Construction Incorporated (hereinafter collectively referred

to as "Granite Construction"). However, if and to the extent that Felton Quarry, Granite Construction Company, Granite Construction Inc., Granite Construction Coastal Region, or any other entity named similarly to "Felton Quarry" remains a separate legal entity from Granite Construction, such entities are included within the definition of You," "Your" or "Felton Quarry" for purposes of this notice letter.

This notice concerns Your violations of the CWA at Your Felton Quarry facility located at 1800 Felton Quarry Road in Felton, California ("the Facility"). This letter addresses Your violations of the substantive and procedural requirements of the CWA and National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [California State Water Resources Control Board] Water Quality Order No. 97-03-DWQ ("Industrial Stormwater Permit"). This letter further addresses Your violations of the predecessor version of the Industrial Stormwater Permit Issued by the California State Water Resources Control Board ("State Board") by Water Quality Order No. 91-013-DWQ (as amended by Order No. 92-116) in 1991/1992 and Your foreseeable violations of the version of Industrial Stormwater Permit issued on April 1, 2014 by State Board Water Quality Order No. 2014-0057-DWQ. All three of these versions of NPDES Permit No. CAS000001 had/have essentially the same terms and conditions. All references in this letter to sections of the version of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 97-03-DWQ should be construed as equally referring to comparable sections in the State Board's orders adopting the 1992 and 2014 versions of this permit.<sup>1</sup>

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of his or her intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the State in which the violations occur.

As required by the CWA, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred and which are continuing to occur at the Felton Quarry Facility. EcoRights' investigations have uncovered significant violations of the Industrial Stormwater Permit and the CWA at the Facility. Consequently, You are hereby placed on formal notice from EcoRights that, after the expiration of sixty (60) days from the date of this Notice of

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<sup>1</sup> The version of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 2014-0057-DWQ becomes effective July 1, 2015 and supersedes the version of this permit adopted by Water Quality Order No. 97-03-DWQ "except for Order 97-03-DWQ's requirement to submit annual reports by July 1, 2015 and except for enforcement purposes." Water Quality Order No. 2014-0057-DWQ at 1 & § I.6 (Findings). Thus, all requirements imposed by Water Quality Order No. 97-03-DWQ will remain in full force and effect after July 1, 2015 for purposes of the citizen suit that EcoRights proposes to bring against You. However, the requirements imposed by Water Quality Order No. 2014-0057-DWQ will also come into effect after July 1, 2015 and Your future violations of such Order's imposition of NPDES permit terms essentially identical to those ordered by Water Quality Order No. 97-03-DWQ will also be enforceable in EcoRights' proposed citizen suit.

Violation and Intent To File Suit, EcoRights intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. §1365(a), for CWA violations. These violations of the Industrial Stormwater Permit and the CWA are described more fully below.

## **I. BACKGROUND**

EcoRights is a non-profit public benefit corporation organized under the laws of California, with its main office in Garberville, California. EcoRights' purpose is to educate the public about environmental practices which cause harm to human health, the environment and other natural resources, and to seek redress from those harms through litigation or alternative dispute resolution. EcoRights represents citizens in protecting California's waterways from pollution, securing the multitude of benefits that flow from clean, vibrant waters: safe drinking water, abundant and diverse wildlife populations, healthy recreational opportunities, and economic prosperity from commercial fishing, tourism, and other commercial activities that depend on clean water. To further its goals, EcoRights actively seeks federal and state agency implementation of state and federal water quality laws, including the CWA, and as necessary, directly initiates enforcement actions on behalf of itself and its members. EcoRights' members use and enjoy the waters and species impacted by Your Facility for various recreational, educational, aesthetic and spiritual purposes. These waters include Elkhorn Slough, Moss Landing Harbor, Monterey Bay, and these species include those that reside, breed, and forage in and around those waters.

Discharges of storm water and non-storm water from bulk aggregate processing and mining facilities are of significant concern because the industrial activities associated with these sites make various pollutants particularly accessible to storm water. Specifically, facilities engaged in bulk aggregate mining, storage, processing, and transport facilities tend to store industrial materials in large piles open to wind and storm water flows. Bulk aggregate facilities generate large amounts of dust and particulate matter which settle on the ground and other surfaces which are exposed to storm water and non-storm water flows. In addition to their storm water runoff, facilities engaged in sand washing also discharge a combination of bay and fresh water seeped from stockpiles that may be contaminated with suspended sediments, chlorine, zinc, copper, lead, and iron, among other pollutants.

You operate a bulk aggregate mining, storage, offloading, and sales facility at 1800 Felton Quarry Road, Felton, California, which is adjacent to Gold Gulch Creek and/or Limestone Brook, tributaries to the San Lorenzo River. This Facility discharges storm water into Limestone Brook. There are no berms or other management practices that prevent the flow of contaminated storm water from the Facility into Gold Gulch Creek and/or Limestone Brook. In addition, the large number of trucks entering and leaving the Facility from the driveways on Felton Quarry Road track sand and other aggregate pollutants off-site where rainfall washes these pollutants into storm drains that discharge into waters of the United States.

## **II. THE LOCATION OF THE ALLEGED VIOLATIONS**

The violations alleged in this notice letter have occurred and continue to occur at Your Facility located at 1800 Felton Quarry Road, Felton, California. The Facility discharges contaminated stormwater through a series of drains and pipes into Gold Gulch Creek and/or Limestone Brook, which is tidally connected to the San Lorenzo River. Felton Quarry's Notice of Intent to be covered by the Industrial Stormwater Permit ("NOI") for the Facility identifies Limestone Brook as the receiving water for its stormwater discharges. As noted, Gold Gulch Creek and Limestone Brook are tributaries to the San Lorenzo River, which is a water of the United States and thus Gold Gulch Creek and Limestone Brook are also waters of the United States. Violations of the substantive and procedural requirements of the Industrial Stormwater Permit and the CWA have occurred and continue to occur at the Facility.

### **A. Felton Quarry's Facility**

You own and operate the Felton Quarry Facility, which is located off of Felton Quarry Road, east of Highway 9 in Santa Cruz County, California. On information and belief, You operate a mining and aggregate processing facility. From the Facility, you mine, quarry and otherwise process various crushed and broken stones.

In the process of mining and quarrying rock and stone, Your Facility maintains large piles of various types of crushed stone throughout the site. Felton Quarry's annual reports ("Annual Reports") filed with the California Regional Water Quality Control Board, San Francisco Bay Region ("Regional Board") indicate that discharges of stormwater from the Facility are consistently contaminated with higher levels of pollutants than permissible under the Industrial Stormwater Permit and that You have therefore failed to develop and/or implement an adequate Stormwater Pollution Prevention Plan ("SWPPP"), Monitoring and Reporting Program ("MRP"), or best management practices ("BMPs") as required by the Industrial Stormwater Permit.

### **C. Affected Waters**

Stormwater discharged from Your Facility flows into Limestone Brook and/or Gold Gulch Creek and ultimately into the San Lorenzo River. The CWA requires that water bodies like the San Lorenzo River and its tributaries meet water quality objectives which protect specific "beneficial uses." The beneficial uses of the San Lorenzo River and its tributaries include aquatic habitat; preservation of rare, threatened, or endangered species; fishing/fish harvesting; water contact recreation; and non-contact water recreation.

The California Regional Water Quality Control Board, Region 3's Central Coastal Basin Plan ("Basin Plan") seeks to protect and maintain aquatic ecosystems and the resources those systems provide to society. The Basin Plan acknowledges discharges of urban industrial site stormwater as a potential significant source of pollution adversely



affecting the quality of local waters. Contaminated stormwater discharges from Your Facility adversely impact the water quality of the San Lorenzo River and its tributaries and threaten their vulnerable and important ecosystem.

Contaminated stormwater from mining and quarrying activities at Your Facility endangers the rare and endangered species and further degrades habitat for all species in the San Lorenzo River and its tributaries. Collectively, wastewater, urban and industrial runoff, as well as mining and quarry operations have contributed sediments, pathogens, and chemicals that are potentially significant to the beneficial uses of the San Lorenzo River and its tributaries.<sup>2</sup> In particular, quarries in the San Lorenzo River watershed have been identified as a potential source of sediment during major storm events, reportedly caused by the failure of on-site settling/retention ponds to contain event stormwater runoff. *Id.* The sediments of the San Lorenzo River and its tributaries act as a sink for bioaccumulative deposits of heavy metals, and strong winds and tidal currents continually re-suspend and redeposit these metals. Toxic chemicals are concentrated in the River's food web as toxic metals and other contaminants absorbed by plankton are consumed by shellfish, fish and birds farther up the food chain, and eventually by humans. Contamination of the aquatic food chain disproportionately harms minority and poor communities, who typically eat a greater than average amount of fish.

It is unlawful to discharge pollutants to waters of the United States, such as the San Lorenzo River, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. On August 4, 1995 You submitted a Notice of Intent to be authorized to discharge stormwater from Your Facility by the Industrial Stormwater Permit and thus at all relevant times have been a permittee subject to the Industrial Stormwater Permit's requirements. The Stormwater Industrial Permit is an NPDES permit, the current version of which the State Board issued on April 17, 1997.<sup>3</sup> Other than coverage under the Industrial Stormwater Permit, Your Facility lacks NPDES permit authorization for any wastewater discharges.

As discussed below, EcoRights's investigations have uncovered numerous significant violations of the Industrial Stormwater Permit and of the CWA's prohibition on the discharge of pollutants to waters of the United States not in compliance with an NPDES permit. Consequently, You are hereby placed on formal notice from EcoRights that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent To File

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<sup>2</sup> San Lorenzo Valley and North Coast Watersheds Sanitary Survey, January 2013, Kennedy/Jenks Consultations prepared for the City of Santa Cruz, available at <http://www.cityofsantacruz.com/home/showdocument?id=30884>.

<sup>3</sup> On August 4, 1995, You submitted an NOI to be authorized by the predecessor general stormwater permit also issued by the State Board, containing essentially identical limitations as the current Industrial Stormwater Permit. As noted, all CWA violations referred to in this letter prior to the effective date of the current Industrial Stormwater Permit in 1997 are violations of the similar prior version of the Industrial Stormwater Permit then in effect.

Suit, EcoRights intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. § 1365(a), for violations of the CWA.

### **III. THE ACTIVITIES AT THE FACILITY ALLEGED TO CONSTITUTE VIOLATIONS AND THE EFFLUENT LIMITATIONS VIOLATED**

Numerous pollutant-generating activities at Your Facility occur outdoors in uncovered areas exposed to rainfall and stormwater runoff. As a result, contaminated stormwater runs off the Facility from the four discharge points identified in Your Annual Reports and discharges to tributaries to the San Lorenzo River. Pursuant to the Industrial Stormwater Permit, this contaminated stormwater discharge obligates Felton Quarry to develop, implement, and update and revise a SWPPP which minimizes the discharge of pollutants to a level commensurate with application of the Best Available Technology Economically Achievable (BAT) and the Best Conventional Pollutant Control Technology (BCT). In addition, the SWPPP and Your implementation of the SWPPP must prevent Your discharges from causing or contributing to violations of Water Quality Standards for the San Lorenzo River and its tributaries. You must also monitor and sample Your Facility's stormwater discharges, and meet various other limitations on its stormwater discharge.

As further described below, You have failed to develop, implement, and revise an adequate SWPPP. You have discharged stormwater polluted to levels exceeding BAT and BCT levels of control and which have caused violations of Water Quality Standards. You further have failed to adequately monitor and sample Your stormwater discharges and meet various other limitations on Your stormwater discharge in the Industrial Stormwater Permit. These actions all constitute actionable CWA violation.

As a result of the numerous pollutant-generating activities at Your Facility, contaminated stormwater runs off Your Facility and discharges into tributaries to the San Lorenzo River. Information available to EcoRights indicates that You have failed to comply with all requirements of the Industrial Stormwater Permit. As further described below, these actions constitute violations of the CWA.

#### **A. Discharges in Violation of the Industrial Stormwater Permit**

The CWA provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharger is in compliance with the terms of a NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Facility discharges stormwater associated with industrial activity to tributaries to the San Lorenzo River which is contaminated with pollutants. The Facility discharges stormwater pursuant to the Industrial Stormwater Permit, which authorizes these discharges conditioned on the Facility complying with the terms of the Industrial Stormwater Permit. Each of these permit terms constitutes an “effluent limitation” within the meaning of CWA section 505(f), 33 U.S.C. § 1365(f). The Facility’s stormwater discharges

have violated numerous of these permit terms, thereby violating CWA effluent limitations.

### **1. Discharges in Excess of BAT/BCT Levels**

The Effluent Limitations of the Industrial Stormwater Permit, § B.3, prohibit Your Facility from discharging pollutants above the level commensurate with the application of BAT and BCT. EPA and the State Board have published Benchmark Values set at the maximum level of pollutant loading generally expected if an industrial facility is employing BAT and BCT,<sup>4</sup> (which are set forth in Attachment 1 to this Notice Letter). As reflected in Attachment 1 to this Notice Letter, the Facility has repeatedly discharged stormwater from each of the discharge locations ("outfalls") identified in Your Annual Reports containing pollutant levels exceeding Benchmark Values, which establishes that the Facility has discharged pollutants above a level commensurate with application of BAT and BCT.<sup>5</sup> Attachment 1 compiles some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of actual stormwater discharges, as well as samples taken by EcoRights from the Facility. The sample results reflected in Attachment 1 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility has discharged stormwater, including instances when the Facility has discharged stormwater that it has not sampled, this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachment 1.

EcoRights alleges and puts You on notice that each day that You discharged stormwater from the Facility, Your stormwater contained levels of pollutants similar to the levels reported in Attachment 1, thus exceeding Benchmark Values.

EcoRights representatives further observed discharges of stormwater from the Facility on December 3, 2014. EcoRights representatives observed very turbid water and high flows downstream of the site in Gold Gulch Creek; the cause of this receiving water turbidity was the high levels of turbidity in Your stormwater discharges from the Facility. BAT and BCT levels of treatment at the Facility would necessarily be sufficient to prevent the discharge of excessively turbid wastewater. Thus, the presence of such turbidity in Your stormwater discharges further establishes that You have discharged and are continuing to

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<sup>4</sup> These Benchmark Values can be found at [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/docs/sbpermit/forms/benchmark\\_usepa\\_multisector.pdf](http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/docs/sbpermit/forms/benchmark_usepa_multisector.pdf) and [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/docs/sbpermit/forms/benchmark\\_regionalboard.pdf](http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/docs/sbpermit/forms/benchmark_regionalboard.pdf).

<sup>5</sup> This provision of the Industrial Stormwater Permit remains the same in the version effective as of July 1, 2015 ("2015 Permit"). See 2015 Permit § V.A. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future.



discharge stormwater that is not treated to a level commensurate with application of BAT and BCT. EcoRights alleges that the stormwater discharges EcoRights observed on these two days are representative of Your stormwater discharges generally and thus every day You have discharged stormwater, You have failed to employ BAT and BCT treatment.

While You should be aware of each day that You have discharged stormwater from the Facility (as the Industrial Stormwater Permit requires You to monitor such discharges), EcoRights alleges and puts You on notice that since You began industrial operations at the Facility, You have discharged stormwater containing pollutants from the Facility to tributaries to the San Lorenzo River during at least every significant local rain event over 0.1 inches. Significant local rain events are reflected in the rain gauge data available at <http://cdec.water.ca.gov> and <http://lwf.ncdc.noaa.gov/oa/ncdc.html>. Attached as Attachment 2 is a table reflecting the rainfall data for the past five years, as reported to the Felton Station, the closest monitoring station available on the NOAA website.

EcoRights further alleges that on each day that You have discharged stormwater You have discharged stormwater that was not treated to a level commensurate with BAT or BCT in violation of the Effluent Limitations of the Industrial Stormwater Permit, § B.3., because, as further alleged in subsection 3, below, You have not developed and implemented a SWPPP that mandates BMPs that are commensurate with BAT and BCT for Your Facility.

EcoRights alleges that Your unlawful discharges of stormwater from the Facility with levels of pollutants exceeding BAT and BCT levels of control continue to occur presently during all significant rain events. Each discharge of stormwater from Your Facility after the effective date of the BAT and BCT requirements has constituted a separate violation of the Industrial Stormwater Permit and the CWA. You are subject to civil penalties for violations of the Industrial Stormwater Permit and the CWA within the past five (5) years.

Your continued discharges of stormwater containing levels of pollutants above Benchmark Values and BAT- and BCT-based levels of control necessarily means that You have not developed and/or implemented sufficient BMPs<sup>6</sup> at the Facility to prevent stormwater flows from coming into contact with the sources of contaminants at the Facility or otherwise to control the discharge of pollutants from the Facility. Accordingly, Felton

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<sup>6</sup> The July 1, 2015 version of the permit requires dischargers to implement a set of minimum BMPs. Implementation of the minimum BMPs, in combination with any advanced BMPs necessary to reduce or prevent pollutants in industrial stormwater discharges, serve as the basis for compliance with the permit's technology-based effluent limitations and water quality based receiving water limitations. *See* 2015 Permit § X.H.1 and 2.. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future.



Quarry has not developed and/or implemented adequate SWPPPs or MRPs at the Facility.

## **2. Discharges that Have Impaired Receiving Waters**

The Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2, prohibit stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. The Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2, prohibit stormwater discharges to surface or groundwater that adversely impact human health or the environment. The Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.2, prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards.<sup>7</sup> Applicable Water Quality Standards are set forth in the Basin Plan<sup>8</sup> and the California Toxics Rule<sup>9</sup> (“CTR”).

The Basin Plan, *inter alia*, establishes the following Water Quality Standards for the San Lorenzo River:

1. Controllable water quality shall conform to the water quality objectives contained therein. Basin Plan at III-2.
2. Dissolved oxygen levels shall be a minimum of 5.0 mg/L [5,000 ug/L]. *Id.* at III-4.

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<sup>7</sup> The July 1, 2015 version of this permit contains essentially identical Discharge Prohibitions. *See* 2015 Permit § V. A-C. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future. In addition, the 2015 Permit requires a discharger to monitor additional parameters if the discharge(s) from its facility contributes pollutants to receiving waters that are listed as impaired for those pollutants (CWA section 303(d) listings). *See* 2015 Permit § VI. A-C and VII.B. The receiving waters that are 303(d) listed as impaired for pollutants that are likely to be associated with industrial stormwater in Appendix 3. Elkhorn Slough is among the listed waters impaired for pH, Low Dissolved Oxygen, and Sediment. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices, including monitoring practices, in the future. These practices do not include the enhanced monitoring that will be required by the 2015 Permit.

<sup>8</sup> The Basin Plan is published by EPA on the internet at:  
[http://www.epa.gov/waterscience/standards/wqslibrary/ca/ca\\_9\\_san\\_francisco.pdf](http://www.epa.gov/waterscience/standards/wqslibrary/ca/ca_9_san_francisco.pdf)  
The Basin Plan is also published by the Regional Board on the internet at:  
<http://www.swrcb.ca.gov/rwqcb2/basinplan.htm>

<sup>9</sup> The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31682

3. Suspended sediment shall not be discharged at rates that cause nuisance or adversely affect beneficial uses. *Id.* at III-3.
4. Waters shall not contain settleable material in concentrations that result in deposition of material that causes nuisance or adversely affects beneficial uses. *Id.*
5. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. *Id.*
6. Waters shall not contain oils, greases, waxes, or other similar materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses. *Id.*

The Basin Plan further establishes numeric water quality criteria for, *inter alia*, zinc.

EcoRights alleges and puts You on notice that Your discharges of stormwater from the Facility from each of the four discharge locations ("outfalls") identified in Your annual reports have caused or contributed to an exceedance of one or more of the above-listed Water Quality Standards. Attachment 1 to this Notice Letter compiles some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of stormwater discharges, as well as additional sample results taken by EcoRights. The sample results reflected in Attachment 1 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility has discharged stormwater, including instances when the Facility has discharged stormwater that You have not sampled, this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachment 1. Attachment 1 indicates that the Facility routinely discharges stormwater to the San Lorenzo River containing, *inter alia*, the following pollutants: total suspended solids (TSS), Specific Conductance (EC), aluminum, iron, and zinc. The levels of these pollutants in Your Facility's stormwater discharges have caused pollution, contamination, or nuisance in violation of the Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2 and adversely impacted the environment in violation of the Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.1. Moreover, the discharge of these pollutants has caused the San Lorenzo River not to attain or contributed to these waters not attaining one or more applicable Water Quality Standards in violation of the Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.1.<sup>10</sup>

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<sup>10</sup> The July 1, 2015 version of this permit contains Receiving Water Limitations. *See* 2015 Permit § VI.A-C and VII.B. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater

Specifically, Your Facility's discharge of turbid stormwater and stormwater with excessive TSS and specific conductance has caused or contributed to the San Lorenzo River not meeting applicable Water Quality Standards in the Basin Plan for levels of suspended sediment and turbidity. Your Facility's discharge of stormwater containing suspended and settleable pollutants (including zinc), acidic pH, and other materials has contributed to the deposition and/or dispersal of materials that interfere with beneficial uses of the San Lorenzo River and a detrimental increase in concentrations of toxic substances found in bottom sediments or aquatic life due to bioaccumulation. Your Facility's discharge of zinc have caused the San Lorenzo River to exceed Water Quality Criteria established by the Basin Plan for zinc and pH.

EcoRights alleges and puts You on notice that each day that You discharged stormwater from the Facility, Your stormwater contained levels of pollutants matching the levels set forth in Attachment 1 and thus caused levels of pollutants to exceed one or more of the applicable Water Quality Standards in the San Lorenzo River.<sup>11</sup> While You should be aware of each day that You have discharged stormwater from the Facility (as the Industrial Stormwater Permit requires You to monitor such discharges), EcoRights alleges and puts You on notice that since the effective date of the above-referenced Water Quality Standards, which date back at least to 1986 in most instances and to May 24, 2000 for the California Toxics Rule's limit on zinc, You have discharged stormwater from the Facility during at least every significant local rain event over 0.1 inches that have caused or contributed to Water Quality Standards not being met in the San Lorenzo River. Significant local rain events are reflected in the rain gauge data available at: <http://lwf.ncdc.noaa.gov/oa/ncdc.html>, and, as mentioned above, summarized in Attachment 2.

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discharge practices in the future.

<sup>11</sup> The version of permit effective July 1, 2015 contains two types of Numerical Action Level (NAL) exceedances: (1) an annual NAL and (2) an instantaneous maximum NAL. An annual NAL exceedance occurs when the average of all sampling results within a reporting year for a single parameter (except pH) exceeds the applicable annual NAL. An instantaneous maximum NAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the applicable instantaneous maximum NAL value. Instantaneous maximum NALs are only for Total Suspended Solids (TSS) and Oil and Grease (O&G). The 2015 Permit requires dischargers to develop and implement Exceedance Response Actions (ERAs), when an annual NAL or instantaneous maximum NAL exceedance occurs during a reporting year. *See* 2015 Permit § XI and XII. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices (which include discharges at levels above the NAL) and fail to adopt compliant ERAs.



EcoRights representatives further observed discharges of stormwater from downstream of Your Facility on December 3, 2014. EcoRights representatives observed that Your stormwater discharges were very murky and dark colored and thus visibly contained high levels of turbidity. Thus, Your stormwater discharges cause the San Lorenzo River and its tributaries to fail to meet the Basin Plan's narrative water quality standards mandating that "Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." Basin Plan III-3. EcoRights alleges that the stormwater discharges EcoRights observed are representative of Your stormwater discharges generally and thus every day you have discharged stormwater, You have discharged stormwater that causes the San Lorenzo River and its tributaries to fail to meet these Basin Plan water quality standards.

Your unlawful discharges from the Facility continue to occur presently during all significant rain events. Each discharge from Your Facility that causes or contributes to an exceedance of an applicable Water Quality Standard constitutes a separate violation of the Industrial Stormwater Permit and the CWA. You are subject to penalties for violations of the Industrial Stormwater Permit and the CWA within the past five (5) years.

### **3. Violation of Industrial Stormwater Permit Conditions Related to Development and/or Implementation of an Adequate Stormwater Pollution Prevention Plan ("SWPPP")**

The Industrial Stormwater Permit, Section A: Stormwater Pollution Prevention Plan Requirements, ¶ 1 requires dischargers covered by the Industrial Stormwater Permit and commencing industrial activities before October 1, 1992 to develop and implement an adequate SWPPP by October 1, 1992. The Provisions of the Industrial Stormwater Permit, ¶ C.1 also requires dischargers to make all necessary revisions to existing SWPPPs promptly, and in any case no later than August 1, 1997.<sup>12</sup>

The SWPPP must include, among other requirements, the following:

1. Specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, including BMPs already existing and BMPs to be adopted or implemented in

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<sup>12</sup> The July 1, 2015 version of this permit contains essentially identical SWPP requirements, but with a new set of minimum BMPs and additional Advanced BMPs. *See* 2015 Permit § X.A-I. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future as Your present practices do not include BMPs commensurate with the 2015 Permit's requirements for minimum and advanced BMPs, *i.e.*, for BMPs that will address Your exceedances of NALs, prevent exceedances of water quality standards, and be commensurate with BAT/BCT.

the future. Industrial Stormwater Permit at 17, Section A: Stormwater Pollution Plan Requirements, ¶ 8.

2. A site map showing the stormwater conveyance system and areas of actual and potential pollutant contact and all areas of on-going industrial activity. *Id.* at 12-13, Section A: SWPPP Requirements, ¶ 4.

3. Identification of the specific individual or individuals and their positions within the facilities organization as members of a stormwater pollution prevention team responsible for developing the SWPPP, assisting the facilities manager in SWPPP implementation and revision, and conducting all monitoring program activities required in the Industrial Stormwater Permit. The SWPPP must clearly identify the Industrial Stormwater Permit related responsibilities, duties, and activities of each team member. *Id.* at 12, Section A: SWPPP Requirements, ¶ 3.a.

4. A list of significant materials handled and stored at the site and a narrative assessment of "which pollutants are likely to be present in stormwater discharges" from the site. *Id.* at 14, 17; Section A, ¶ 5 and Section A, ¶ 7.a.ii.

5. Revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *Id.* at 23, Section A: SWPPP Requirements, ¶ 10.d.

You have failed to prepare, maintain, revise and implement Your SWPPP as required, as evidenced by stormwater discharges that exceed EPA and State benchmarks and contribute to violations of Water Quality Standards in receiving waters. Your SWPPP does not specify adequate BMPs designed to reduce pollutant discharge to BAT and BCT levels in accord with Section A: SWPPP Requirements, ¶ 8 of the Industrial Stormwater Permit as evidenced by the Facility's continued discharge of stormwater contaminated above pollutant levels attainable via application of BAT and BCT. For example all of the following BMP measures are technologically feasible, constitute BAT and BCT for Your Facility, and would greatly decrease Your discharges of contaminated stormwater:

1. Install dikes, curbs, and berms and increased on-site stormwater retention (in the form of storage ponds, swales and so forth) to divert or prevent stormwater from discharging.
2. Implement standard low impact development (LID) measures to "mimic [the] site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall."<sup>13</sup> Help reduce the

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<sup>13</sup> California State Water Resources Control Board, Low-Impact Development – Sustainable Storm Water Management, published on the Internet at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/low\\_impact\\_development/index.sht](http://www.waterboards.ca.gov/water_issues/programs/low_impact_development/index.sht)

sediment and pollutant load of stormwater discharged by installing gabions, riprap, native rock retaining walls, straw bale barriers, sediment traps/catch basins, biotechnical stabilization, silt fences, siltation berms, brush sediment barriers, and vegetated swales and/or buffer strips for sediment control and collection.

3. Install permeable pavers in appropriate locations.
4. Install and properly operating maintain stormwater filtration systems with sufficient capacity to treat Your stormwater to a level necessary to prevent receiving waters from failing to meet applicable water quality standards.
5. Regular sweeping of the Facility with a regenerative sweeper to prevent the buildup of metals and other pollutants,
6. Semiannual power washing of the Facility to further prevent the buildup of metals and other pollutants (coupled with the collection and off-site disposal of power wash water).
7. Constructing roof overhang structures or buildings and then conducting all motor vehicle fueling only under cover and away from exposure to rainwater.
8. Until such overhang structures or buildings are completed, to halt the practice of fueling motor vehicles during rainstorm events.
9. To place oil absorbent materials underneath stored vehicles and equipment that are sufficiently sized and sufficiently absorbent to prevent oil staining of the ground surrounding stored automobiles.
10. Store materials and indoor locations to the extent feasible and cover material stored outside with tarps.<sup>14</sup>

Your SWPPPs failed to specify such BMPs.

Your failures to draft an adequate SWPPP, and/or to revise, and/or to implement Your SWPPP in all the above respects are in violation of the requirements of Section A of the Industrial Stormwater Permit. You were required to have prepared and implemented an adequate SWPPP by no later than October 1, 1992 pursuant to the previous Industrial Stormwater Permit issued by the State Board and by Section A: Stormwater Pollution Prevention Plan Requirements, ¶ 1 of the current Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the requirement to develop and implement an adequate SWPPP for the Facility on each and every day since October 1, 1992 that You have maintained the Facility. You will continue to be in violation every day that You fail to develop and implement an adequate SWPPP. You are subject to penalties for

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<sup>14</sup> See SC-33, *Outdoor Storage of Raw Materials*, in the California Stormwater BMP Handbook, by the California Stormwater Quality Association. This suggested protocol states in pertinent part: "Store all materials inside. If this is not feasible, then all outside storage areas should be covered with a roof and bermed or enclosed to prevent stormwater contact."



violations of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

**4. Failure to Develop and/or Implement an Adequate Monitoring and Reporting Program and Perform Annual Comprehensive Site Compliance Evaluations as Required by the Industrial Stormwater Permit.**

The Industrial Stormwater Permit, Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 1, and Provisions, ¶ E.3, require dischargers to develop and implement an adequate written MRP by October 1, 1992 or when their industrial activities begin. The MRP must be sufficient to: (a) ensure that stormwater discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit, (b) ensure practices at the facilities to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges are evaluated and revised to meet changing conditions, (c) aid in the implementation and revision of the SWPPP as required by the Industrial Stormwater Permit, and (d) measure the effectiveness of BMPs to prevent or reduce pollutants in stormwater discharges and authorized non-stormwater discharges. Section B: MRP Requirements, ¶ 2. All dischargers must fully implement their MRP. Section B: MRP Requirements, ¶ 1. All dischargers must submit a certified Annual Report documenting monitoring activity. Section B: MRP Requirements, ¶ 14. In addition, Section C: Standard Provisions, ¶¶ 9 and 10, of the Industrial Stormwater Permit require dischargers to certify, based on annual site inspection, that the permitted facilities are in compliance with the Permit and to report any noncompliance with its terms.<sup>15</sup> As described below, however, You have not adopted or have not fully implemented an adequate MRP, have failed to provide complete and accurate Annual Reports, and have failed to provide accurate reporting of noncompliance with the terms of the Industrial Stormwater Permit.

In addition, Your MRP must provide for collection of stormwater samples from the first hour of discharge from the first storm event of the wet season and one other storm event, and analysis of such samples. Section B: MRP Requirements ¶ 5. Your MRP must further direct You to take and analyze samples from each discharge point at Your Facility. *Id.* at ¶¶ 5, 7.a. Your Annual Reports submitted to the Regional Board for the Facility indicate that You have not consistently and/or properly taken and analyzed the required samples.

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<sup>15</sup> The July 1, 2015 version of this permit contains updated Monitoring requirements. *See* 2015 Permit § XI. EcoRights hereby places you on notice that EcoRights intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future as Your present practices do not include monitoring efforts commensurate with the 2015 Permit's requirements.

Your Annual Report for 2011/12 failed to provide results of analysis of samples from each discharge point at Your Facility. For the first storm event You sampled that year, You only sampled from 3 of Your 4 identified discharge locations. During the second storm event You sampled, You only sampled from 2 of Your 4 identified discharge points. Your 2013/14 Annual Report provided sample results from only 2 of Your 4 discharge points during the first day of the February 9, 2014 storm event You sampled and only provided results of a sample taken on the following day from a third discharge point, in violation of the Permit requirements. During the second storm event You sampled in 2013/14, You only sampled 2 of the 4 discharge points, again, in violation of Permit requirements. Section B: MRP Requirements ¶ 5, 7.a.

Your MRP must provide for visual monitoring and recording of stormwater discharge from one rainfall event per month during the October 1 to May 30 wet season. Section B: MRP Requirements, ¶¶ 3, 4 and 7 (visual observation of stored or contained stormwater must be made during release). Your Annual Reports submitted to the Regional Board for the Facility indicate that in all years from at least 2011 to the present, You have not made and recorded at least one visual observation of all points of discharge of stormwater from Your Facility during at least one rainfall event per month from October 1 to May 30. There were several months in this time period during which You had stormwater discharges from self-reported and unreported discharge points but failed to monitor stormwater discharges and record the results of this monitoring. Specifically, You failed to make the required visual observations of storms in the following months; 2012-April, 2013-September, October; 2014-April. Your Annual Reports simply skip some of these months altogether or otherwise fail to report visual observations of stormwater discharge on all days where NOAA climate data for the Felton station reports that there was rain over 0.1 inches. Thus there necessarily had to have been discharge from the Facility that you failed to observe and report. Accordingly, You have violated the visual monitoring requirements of Section B: MRP Requirements, ¶ 3 and the Annual Report requirements of Section B: MRP Requirements, ¶ 14 and Section C: Standard Provisions, ¶¶ 9 and 10.

Your MRP must provide for analysis of toxic chemicals and other pollutants that are likely to be present in Your stormwater discharges. Industrial Stormwater Permit, Section B: MRP Requirements, ¶ 5. Sampling conducted by ERF has shown that Your stormwater discharges contain elevated zinc, iron, and aluminum. In addition, any party operating in Your industry doing their due diligence would know that stormwater from a Facility such as Yours would have high levels of these pollutants. Your MRP is inadequate because it fails to provide for analysis of these pollutants.

Based on the above, You have not developed and implemented an adequate MRP. You were required to have prepared and implemented an adequate MRP by no later than October 1, 1992 pursuant to the previous Industrial Stormwater Permit issued by the State Board and by Section B: Monitoring Program and Reporting Requirements, ¶ 1.a. of the

current Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the monitoring and reporting requirements of the Industrial Stormwater Permit set forth in Section B: MRP Requirements every day since October 1, 1992. You will continue to be in violation every day that You fail to develop and implement an adequate MRP for the Facility. You are subject to penalties for violations of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

As further discussed above, You have not submitted accurate and complete Annual Reports and reports of Your noncompliance with the Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the reporting requirements of the Industrial Stormwater Permit, Section B: MRP Requirements, ¶ 14 and Section C: Standard Provisions, ¶¶ 9 and 10 every day since each of Your Annual Reports were due.

#### **IV. PERSONS RESPONSIBLE FOR THE VIOLATIONS**

Granite Construction Company, Granite Construction Incorporated and Mr. James H. Roberts are the persons responsible for the violations at the Facility described above.

#### **V. NAME AND ADDRESS OF NOTICING PARTY**

Our name, address, and telephone number is as follows:

Ecological Rights Foundation  
867 B Redwood Drive  
Garberville, CA 9542  
(707) 923-4372

#### **VI. COUNSEL**

EcoRights has retained legal counsel to represent it in this matter. Please direct all communications to:

Christopher Sproul  
Environmental Advocates  
5135 Anza Street  
San Francisco, CA 94121  
(415) 533-3376  
Email: csproul@enviroadvocates.com



Fredric Evenson  
Ecology Law Center  
~Monterey Bay~  
P.O. Box 1000  
Santa Cruz, CA 95061  
(831) 454-8216  
Email: evenson@ecologylaw.com

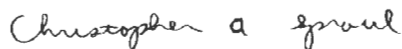
## VII. REMEDIES

EcoRights will seek injunctive and declaratory relief preventing further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, EcoRights will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d) and 40 C.F.R. section 19.4, against each defendant in this action of up to \$32,500 for all violations on or after March 15, 2004. *See* 69 Fed. Reg. 7121 (Feb. 13, 2004). Lastly, EcoRights will seek to recover costs and attorneys' fees in accord with CWA section 505(d), 33 U.S.C. § 1365(d).

EcoRights believes this Notice of Violations and Intent to Sue sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against You for the above-referenced violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter. If You wish to pursue such discussions in the absence of litigation, we suggest that You initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Christopher Sproul  
Environmental Advocates  
Counsel for Ecological Rights Foundation

**ADDITIONAL SERVICE LIST – FEDERAL & STATE AGENCIES**

cc: Gina McCarthy, Administrator U.S. Environmental Protection Agency Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460	Eric Holder, U.S. Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001
Jared Blumenfeld, Regional Administrator U.S. Environmental Protection Agency Region IX 75 Hawthorne Street San Francisco, California 94105	Thomas Howard Executive Director State Water Resources Control Board P.O. Box 100 Sacramento, California 95812-0100
Kenneth A. Harris, Executive Officer Regional Water Quality Control Board Region 3 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401	

## Attachment 1: Sampling Results from Felton Quarry

### Data Reported by Felton Quarry

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
1/28/2008	SW-1, OG-1	pH	6	6 to 9	
1/28/2008	SW-1, OG-1	EC	370 uS/cm	200 uS/cm	1.85
1/28/2008	SW-1, OG-1	TSS	24 mg/L	100 mg/L	
1/28/2008	SW-1, OG-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
1/28/2008	SW-2, OG-2	pH	7.3	6 to 9	
1/28/2008	SW-2, OG-2	EC	520 uS/cm	200 uS/cm	2.60
1/28/2008	SW-2, OG-2	TSS	16 mg/L	100 mg/L	
1/28/2008	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
1/28/2008	SW-3, OG-3	pH	7.2	6 to 9	
1/28/2008	SW-3, OG-3	EC	280 uS/cm	200 uS/cm	1.40
1/28/2008	SW-3, OG-3	TSS	15 mg/L	100 mg/L	
1/28/2008	SW-3, OG-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/9/2009	SW-2, OG-2	pH	7.1	6 to 9	
2/9/2009	SW-2, OG-2	EC	780 uS/cm	200 uS/cm	3.90
2/9/2009	SW-2, OG-2	TSS	130 mg/L	100 mg/L	1.30
2/9/2009	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/23/2009	SW-1, OG-1	pH	7.6	6 to 9	
2/23/2009	SW-1, OG-1	EC	400 uS/cm	200 uS/cm	2.00
2/23/2009	SW-1, OG-1	TSS	32 mg/L	100 mg/L	
2/23/2009	SW-1, OG-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/23/2009	SW-2, OG-2	pH	7.2	6 to 9	
2/23/2009	SW-2, OG-2	EC	690 uS/cm	200 uS/cm	3.45
2/23/2009	SW-2, OG-2	TSS	9.2 mg/L	100 mg/L	
2/23/2009	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/23/2009	SW-3, OG-3	pH	7	6 to 9	
2/23/2009	SW-3, OG-3	EC	250 uS/cm	200 uS/cm	1.25
2/23/2009	SW-3, OG-3	TSS	31 mg/L	100 mg/L	
2/23/2009	SW-3, OG-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
3/6/2009	SW-1, OG-1	pH	7.8	6 to 9	
3/6/2009	SW-1, OG-1	EC	490 uS/cm	200 uS/cm	2.45
3/6/2009	SW-1, OG-1	TSS	ND	100 mg/L	
3/6/2009	SW-1, OG-1	O&G	ND		



DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
10/25/2010	SW-2, OG-2	pH	6.5	6 to 9	
10/25/2010	SW-2, OG-2	EC	880 uS/cm	200 uS/cm	4.40
10/25/2010	SW-2, OG-2	TSS	15 mg/L	100 mg/L	
10/25/2010	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
10/25/2010	SW-3, OG-3	pH	5.1	6 to 9	1.18
10/25/2010	SW-3, OG-3	EC	930 uS/cm	200 uS/cm	4.65
10/25/2010	SW-3, OG-3	TSS	7.8 mg/L	100 mg/L	
10/25/2010	SW-3, OG-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
12/20/2010	SW-1, OG-1	pH	7.7	6 to 9	
12/20/2010	SW-1, OG-1	EC	450 uS/cm	200 uS/cm	2.25
12/20/2010	SW-1, OG-1	TSS	4.0 mg/L	100 mg/L	
12/20/2010	SW-1, OG-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
12/20/2010	SW-2, OG-2	pH	7.1	6 to 9	
12/20/2010	SW-2, OG-2	EC	660 uS/cm	200 uS/cm	3.30
12/20/2010	SW-2, OG-2	TSS	9.4 mg/L	100 mg/L	
12/20/2010	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
12/20/2010	SW-3, OG-3	pH	7	6 to 9	
12/20/2010	SW-3, OG-3	EC	400 uS/cm	200 uS/cm	2.00
12/20/2010	SW-3, OG-3	TSS	5.9 mg/L	100 mg/L	
12/20/2010	SW-3, OG-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
1/31/2011	SW-1, OG-1	pH	7.9	6 to 9	
1/31/2011	SW-1, OG-1	EC	470 uS/cm	200 uS/cm	2.35
1/31/2011	SW-1, OG-1	TSS	ND	100 mg/L	
1/31/2011	SW-1, OG-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
10/6/2011	SW-1, OG-1	pH	7	6 to 9	
10/6/2011	SW-1, OG-1	EC	1300 uS/cm	200 uS/cm	6.50
10/6/2011	SW-1, OG-1	TSS	4.6 mg/L	100 mg/L	
10/6/2011	SW-1, OG-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
10/6/2011	SW-2, OG-2	pH	7.6	6 to 9	
10/6/2011	SW-2, OG-2	EC	510 uS/cm	200 uS/cm	2.55
10/6/2011	SW-2, OG-2	TSS	2.1 mg/L	100 mg/L	
10/6/2011	SW-2, OG-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
10/6/2011	SW-3, OG-3	pH	5.1	6 to 9	1.20
10/6/2011	SW-3, OG-3	EC	900 uS/cm	200 uS/cm	4.50
10/6/2011	SW-3, OG-3	TSS	15 mg/L	100 mg/L	
10/6/2011	SW-3, OG-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
3/2/2012	SP-1	pH	8	6 to 9	
3/2/2012	SP-1	EC	610 uS/cm	200 uS/cm	3.05
3/2/2012	SP-1	TSS	3.8 mg/L	100 mg/L	
3/2/2012	SP-1	O&G	ND		
3/2/2012	SP-1	Nitrate as N	ND		
3/2/2012	SP-1	Nitrite as N	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
3/2/2012	SP-2	pH	7.2	6 to 9	
3/2/2012	SP-2	EC	1000 uS/cm	200 uS/cm	5.00
3/2/2012	SP-2	TSS	1.9 mg/L	100 mg/L	
3/2/2012	SP-2	O&G	ND		
3/2/2012	SP-2	Nitrate as N	ND		
3/2/2012	SP-2	Nitrite as N	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
11/28/2012	DP-2	pH	7.2	6 to 9	
11/28/2012	DP-2	EC	640 uS/cm	200 uS/cm	3.20
11/28/2012	DP-2	TSS	290 mg/L	100 mg/L	2.90
11/28/2012	DP-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
11/28/2012	DP-3	pH	6.9	6 to 9	
11/28/2012	DP-3	EC	810 uS/cm	200 uS/cm	4.05
11/28/2012	DP-3	TSS	8.9 mg/L	100 mg/L	
11/28/2012	DP-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
11/30/2012	DP-1	pH	7.4	6 to 9	
11/30/2012	DP-1	EC	270 uS/cm	200 uS/cm	1.35
11/30/2012	DP-1	TSS	150 mg/L	100 mg/L	1.50
11/30/2012	DP-1	O&G	ND		



DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/10/2014	DP-1	pH	6.9	6 to 9	
2/10/2014	DP-1	EC	210 uS/cm	200 uS/cm	1.05
2/10/2014	DP-1	TSS	9.6 mg/L	100 mg/L	
2/10/2014	DP-1	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/9/2014	DP-2	pH	6.8	6 to 9	
2/9/2014	DP-2	EC	620 uS/cm	200 uS/cm	3.10
2/9/2014	DP-2	TSS	30 mg/L	100 mg/L	
2/9/2014	DP-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/9/2014	DP-3	pH	6.9	6 to 9	
2/9/2014	DP-3	EC	390 uS/cm	200 uS/cm	1.95
2/9/2014	DP-3	TSS	46 mg/L	100 mg/L	
2/9/2014	DP-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/26/2014	DP-2	pH	7	6 to 9	
2/26/2014	DP-2	EC	800 uS/cm	200 uS/cm	4.00
2/26/2014	DP-2	TSS	15 mg/L	100 mg/L	
2/26/2014	DP-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
2/26/2014	DP-3	pH	6.9	6 to 9	
2/26/2014	DP-3	EC	310 uS/cm	200 uS/cm	1.55
2/26/2014	DP-3	TSS	1000 mg/L	100 mg/L	10.00
2/26/2014	DP-3	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
3/31/2014	DP-2	pH	7	6 to 9	
3/31/2014	DP-2	EC	870 uS/cm	200 uS/cm	4.35
3/31/2014	DP-2	TSS	2.4 mg/L	100 mg/L	
3/31/2014	DP-2	O&G	ND		

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED
3/31/2014	DP-3	pH	6.8	6 to 9	
3/31/2014	DP-3	EC	300 uS/cm	200 uS/cm	1.50
3/31/2014	DP-3	TSS	260 mg/L	100 mg/L	2.60
3/31/2014	DP-3	O&G	ND		

# EcoRights Sampling Results

DATE	OUTFALL	POLLUTANT	RESULT	EPA BENCHMARK	TIMES EXCEEDED	BASIN PLAN Table 3-6	TIMES EXCEEDED
12/3/2014	GGC-001	COD	15 mg/L	120 mg/L			
12/3/2014	GGC-001	EC	610 uS/cm	200 uS/cm	3.05		
12/3/2014	GGC-001	TSS	65 mg/L	100 mg/L			
12/3/2014	GGC-001	Total Aluminum	2900 ug/L	750 ug/L	3.87		
12/3/2014	GGC-001	Total Copper (Cu)	1.8 ug/L	63.6 ug/L		10 ug/L	
12/3/2014	GGC-001	Total Iron (Fe)	9300 ug/L	1000 ug/L	9.30		
12/3/2014	GGC-001	Total Lead (Pb)	0.95 ug/L	81.6 ug/L		10 ug/L	
12/3/2014	GGC-001	Total Zinc (Zn)	21 ug/L	117 ug/L		20 ug/L	1.05



## Attachment 2: Alleged Dates of Felton Quarry's Violations, March 2010 to March 2015

Days with precipitations of one tenth of an inch or greater, as reported by NOAA's Climatic Data Center,  
Felton Station. <http://lwf.ncdc.noaa.gov/oa/ncdc.html>

Date	Precipitation
2-Mar-10	0.29
3-Mar-10	1.45
4-Mar-10	0.38
13-Mar-10	0.99
31-Mar-10	0.1
1-Apr-10	0.96
3-Apr-10	0.94
5-Apr-10	1.61
20-Apr-10	0.49
21-Apr-10	0.1
27-Apr-10	0.19
28-Apr-10	0.75
11-May-10	0.36
18-May-10	0.19
18-Oct-10	0.18
22-Oct-10	0.15
23-Oct-10	0.12
24-Oct-10	1.68
25-Oct-10	2.29
8-Nov-10	1.26
10-Nov-10	0.24
20-Nov-10	0.73
21-Nov-10	1.88
22-Nov-10	0.28
23-Nov-10	0.46
24-Nov-10	0.28
28-Nov-10	0.64
5-Dec-10	0.12
6-Dec-10	0.82
9-Dec-10	0.88
15-Dec-10	0.29
19-Dec-10	3.09
20-Dec-10	0.39
21-Dec-10	0.35
22-Dec-10	1.14

29-Dec-10	3.58
30-Jan-11	0.63
31-Jan-11	0.24
14-Feb-11	0.28
15-Feb-11	0.32
16-Feb-11	1.19
17-Feb-11	1.03
18-Feb-11	2.49
19-Feb-11	0.93
20-Feb-11	1.28
25-Feb-11	2.29
26-Feb-11	1.29
2-Mar-11	1.25
3-Mar-11	0.26
14-Mar-11	0.77
16-Mar-11	0.41
19-Mar-11	1.18
20-Mar-11	2.48
21-Mar-11	0.25
22-Mar-11	0.2
23-Mar-11	1.94
24-Mar-11	0.53
25-Mar-11	2.12
26-Mar-11	0.49
14-Apr-11	0.12
15-May-11	0.82
17-May-11	1.18
18-May-11	1.44
26-May-11	0.13
29-Jun-11	0.6
4-Oct-11	0.63
5-Oct-11	2.14
6-Oct-11	0.35
7-Oct-11	0.23
4-Nov-11	0.18
6-Nov-11	1.06
12-Nov-11	0.85
20-Nov-11	1.09
21-Nov-11	0.53
24-Nov-11	0.32
19-Jan-12	1.78
20-Jan-12	3.29
21-Jan-12	0.12

22-Jan-12	2.05
23-Jan-12	0.12
7-Feb-12	0.27
13-Feb-12	0.27
14-Feb-12	0.38
15-Feb-12	0.1
2-Mar-12	0.4
13-Mar-12	0.6
14-Mar-12	2.92
15-Mar-12	2.87
16-Mar-12	0.68
17-Mar-12	2.63
18-Mar-12	0.34
19-Mar-12	0.12
25-Mar-12	1.22
28-Mar-12	1.44
29-Mar-12	0.13
10-Apr-12	0.13
11-Apr-12	0.68
12-Apr-12	0.66
13-Apr-12	1.88
14-Apr-12	0.1
26-Apr-12	0.16
5-Jun-12	0.17
22-Oct-12	0.29
23-Oct-12	0.55
25-Oct-12	0.18
1-Nov-12	0.22
2-Nov-12	0.18
17-Nov-12	2.04
18-Nov-12	0.94
24-Nov-12	1.94
28-Nov-12	0.14
29-Nov-12	0.75
30-Nov-12	2.89
1-Dec-12	3.49
2-Dec-12	2.19
3-Dec-12	1.2
5-Dec-12	0.62
6-Dec-12	0.45
12-Dec-12	0.15
16-Dec-12	0.22
17-Dec-12	1.41

18-Dec-12	0.45
22-Dec-12	1.29
23-Dec-12	1.33
24-Dec-12	3.55
26-Dec-12	1.25
27-Dec-12	0.15
29-Dec-12	0.49
6-Jan-13	1.07
24-Jan-13	0.11
25-Jan-13	0.36
20-Feb-13	0.47
6-Mar-13	0.97
8-Mar-13	0.31
28-Mar-13	0.12
31-Mar-13	0.51
1-Apr-13	0.41
4-Apr-13	0.26
5-Apr-13	0.18
26-Jun-13	0.13
21-Sep-13	0.18
22-Sep-13	0.37
20-Oct-13	0.65
21-Oct-13	0.27
7-Dec-13	0.77
2-Feb-14	0.45
6-Feb-14	0.84
7-Feb-14	0.16
8-Feb-14	2.75
9-Feb-14	4.03
10-Feb-14	1.36
16-Feb-14	0.14
27-Feb-14	2.29
28-Feb-14	2.35
1-Mar-14	1.5
2-Mar-14	0.59
3-Mar-14	0.23
4-Mar-14	0.24
6-Mar-14	0.38
1-Apr-14	1.1
2-Apr-14	0.81
4-Apr-14	0.18
25-Apr-14	0.11
26-Apr-14	0.46



25-Sep-14	0.35
13-Nov-14	0.59
14-Nov-14	0.12
20-Nov-14	0.59
21-Nov-14	0.89
22-Nov-14	0.39
23-Nov-14	0.32
29-Nov-14	0.8
30-Nov-14	0.45
1-Dec-14	0.45
2-Dec-14	0.92
3-Dec-14	3.38
4-Dec-14	1.7
5-Dec-14	0.24
11-Dec-14	0.12
15-Dec-14	0.91
16-Dec-14	1.03
17-Dec-14	0.95
18-Dec-14	0.5
7-Feb-15	2.19
8-Feb-15	0.59
9-Feb-15	0.84
1-Mar-15	0.14
11-Mar-15	0.18
23-Mar-15	0.21